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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON**

WILDEARTH GUARDIANS,
WESTERN WATERSHEDS
PROJECT, and KETTLE RANGE
CONSERVATION GROUP;

Plaintiffs,

v.

U.S. FOREST SERVICE; GLENN
CASAMASSA, Pacific Northwest
Regional Forester, U.S. Forest Service;
RODNEY SMOLDON, Forest
Supervisor, Colville National Forest;

Federal Defendants.

Case No. 2:20-cv-00223-RMP

ANSWER

Federal Defendants hereby respond to the allegations in Plaintiffs' Complaint for Declaratory and Injunctive Relief (Complaint), ECF No. 1, in the above-captioned action. The numbered paragraphs in this Answer correspond to the numbered paragraphs in the Amended Complaint.

“INTRODUCTION”¹

1. The allegations in the first and second sentences of this paragraph constitute conclusions of law to which no response is required. Federal Defendants deny the allegations in the third and fourth sentences of this paragraph. The allegations in the fifth sentence of this paragraph purport to characterize the revised Land and Resource Management Plan (2019 Forest Plan)

¹ The headings here correspond to the headings in the Complaint. Federal Defendants include them strictly to provide convenient reference to the Complaint and do not intend them to form any substantive part of Federal Defendants' Answer. To the extent the Complaint headings make substantive allegations, Federal Defendants deny those allegations.

1 for the Colville National Forest, which speaks for itself and is the best evidence of
2 its content. The allegations in the sixth sentence of this paragraph regarding
3 “rejected calls,” “annual grazing instructions,” “those portions,” “concentrated,”
4 and “past several years,” are too vague and ambiguous to permit Federal
5 Defendants to frame a response, and are denied on that basis. The allegations in
6 the seventh sentence of this paragraph regarding “status quo grazing practices,”
7 “sat idly by,” “at the behest of,” and “rugged, heavily-treed portions of the
8 National Forest,” are too vague and ambiguous to permit Federal Defendants to
9 frame a response, and are denied on that basis.

10 2. Federal Defendants deny the allegations in the first and second
11 sentences of this paragraph because they lack sufficient knowledge or information
12 to form a belief as to the truth of the allegations. The allegations in the third
13 sentence of this paragraph regarding “other nearby ranchers,” “steadfastly
14 refuses,” and “commonsense measures,” are too vague and ambiguous to permit
15 Federal Defendants to frame a response, and are denied on that basis. The
16 allegations in the first clause of the fourth sentence of this paragraph are too
17 vague and ambiguous to permit Federal Defendants to frame a response, and are
18 denied on that basis. The allegations in the second clause of the fourth sentence
19 of this paragraph purport to characterize the relevant grazing permits, which
20 speak for themselves and are the best evidence of their content. To the extent a
21 response is required, Federal Defendants deny the allegations in the second clause
22 of the fourth sentence of this paragraph. The allegations in the fifth sentence of
23 this paragraph constitute conclusions of law to which no response is required. To
24 the extent a response is required, Federal Defendants deny the allegations in the
25 fifth sentence of this paragraph.

26 3. Federal Defendants admit the allegations in the first sentence of this
27 paragraph that the Colville National Forest is approximately 1.1 million acres in
28

1 size and is geographically considered part of the northern Rocky Mountains, with
2 the Kettle River Range on the western half and the Selkirk Mountains on the east.
3 The remaining allegations in the first sentence of this paragraph regarding
4 “mostly comprised of densely forested rugged terrain” and “prime habitat for
5 native carnivores” are too vague and ambiguous to permit Federal Defendants to
6 frame a response, and are denied on that basis. The allegations in the second
7 sentence of this paragraph regarding “widely grazed” are too vague and
8 ambiguous to permit Federal Defendants to frame a response, and are denied on
9 that basis. Federal Defendants admit the allegations in the third sentence of this
10 paragraph. The allegations in the fourth sentence of this paragraph purport to
11 characterize the 2019 Forest Plan, Allotment Management Plans (AMPs), and
12 “annual grazing authorizations,” which speak for themselves and are the best
13 evidence of their content.

14 4. The allegations in this paragraph constitute Plaintiffs’
15 characterization of this case to which no response is required. To the extent a
16 response is required, Federal Defendants deny the allegations in this paragraph.

17 5. The allegations in this paragraph constitute Plaintiffs’
18 characterization of this case to which no response is required. To the extent a
19 response is required, Federal Defendants deny the allegations in this paragraph.

20 6. The allegations in the first sentence of this paragraph regarding
21 “2020 annual grazing instructions” are too vague and ambiguous to permit
22 Federal Defendants to frame a response, and are denied on that basis. The
23 allegations in the second sentence of this paragraph regarding “2020 grazing
24 authorizations” are too vague and ambiguous to permit Federal Defendants to
25 frame a response, and are denied on that basis. Further, the allegations in the
26 second sentence of this paragraph purport to characterize the 2019 Forest Plan,
27 which speaks for itself and is the best evidence of its content.
28

1 7. The allegations in this paragraph constitute Plaintiffs’
2 characterization of this case to which no response is required. To the extent a
3 response is required, Federal Defendants admit that the Canada lynx and grizzly
4 bear are listed as “threatened” species under the Endangered Species Act (ESA)
5 and deny the remaining allegations in this paragraph.

6 8. The allegations in this paragraph constitute Plaintiffs’
7 characterization of this case to which no response is required. To the extent a
8 response is required, Federal Defendants deny the allegations in this paragraph.

9 **“JURISDICTION AND VENUE”**

10 9. The allegations in this paragraph constitute conclusions of law to
11 which no response is required.

12 10. The allegations in this paragraph constitute conclusions of law to
13 which no response is required. To the extent a response is required, Federal
14 Defendants admit venue is proper in the Eastern District of Washington.

15 11. The allegations in this paragraph constitute conclusions of law to
16 which no response is required.

17 **“PARTIES”**

18 12. Federal Defendants deny the allegations in this paragraph because
19 they lack sufficient knowledge or information to form a belief as to the truth of
20 the allegations.

21 13. Federal Defendants deny the allegations in this paragraph because
22 they lack sufficient knowledge or information to form a belief as to the truth of
23 the allegations.

24 14. Federal Defendants deny the allegations in this paragraph because
25 they lack sufficient knowledge or information to form a belief as to the truth of
26 the allegations.

1 15. Federal Defendants admit the allegations in the first clause of this
2 paragraph. The remaining allegations in this paragraph constitute conclusions of
3 law to which no response is required.

4 16. Federal Defendants admit the allegations in the first sentence of this
5 paragraph. Federal Defendants admit the allegations in the second sentence of
6 this paragraph that Glen Casamassa signed the final Record of Decision (ROD)
7 for the 2019 Colville Forest Plan. The remaining allegations in the second
8 sentence of this paragraph contain Plaintiffs' characterization of the case to which
9 no response is required.

10 17. Federal Defendants admit the allegations in the first and second
11 sentences of this paragraph. The allegations in the third sentence of this paragraph
12 contain Plaintiffs' characterization of the case to which no response is required.

13 18. The allegations in this paragraph contain Plaintiffs' characterization
14 of the Complaint to which no response is required.

15 19. The allegations in the first sentence of this paragraph contain
16 Plaintiffs' characterization of the case to which no response is required. To the
17 extent a response is required, Federal Defendants deny the allegations in the first
18 sentence of this paragraph because they lack sufficient knowledge or information
19 to form a belief as to the truth of the allegations. Federal Defendants deny the
20 allegations in the second, third, and fourth sentences of this paragraph because
21 they lack sufficient knowledge or information to form a belief as to the truth of
22 the allegations. The allegations in the fifth sentence of this paragraph constitute
23 conclusions of law to which no response is required. To the extent a response is
24 required, Federal Defendants deny the allegations in the fifth sentence of this
25 paragraph.

26 20. Federal Defendants deny the allegations in the first three sentences
27 of this paragraph because they lack sufficient knowledge or information to form a
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1 belief as to the truth of the allegations. The allegations in the fourth and fifth
2 sentences of this paragraph constitute conclusions of law to which no response is
3 required. To the extent a response is required, Federal Defendants deny the
4 allegations in the fourth and fifth sentences of this paragraph.

5 **“LEGAL BACKGROUND”**

6 **“National Forest Management Act and Livestock Grazing”**

7 21. The allegations in this paragraph constitute conclusions of law to
8 which no response is required.

9 22. The allegations in this paragraph constitute conclusions of law to
10 which no response is required.

11 23. The allegations in this paragraph constitute conclusions of law to
12 which no response is required.

13 24. Federal Defendants admit the allegations in the first sentence of this
14 paragraph that the Forest Service adopted the 2019 Forest Plan on October 21,
15 2019, to replace a Forest Plan adopted in 1988. Federal Defendants deny the
16 allegations in the first sentence of this paragraph that the 2019 Forest Plan is “the
17 governing Forest Plan,” and aver that some site-specific actions, including some
18 grazing permits, that were authorized under the 1988 Forest Plan continue to be
19 implemented under the 1988 Forest Plan. Federal Defendants admit the
20 allegations in the second and third sentences of this paragraph, including footnote
21 1.

22 25. The allegations in this paragraph constitute conclusions of law to
23 which no response is required. The allegations in the first sentence of footnote 2
24 purport to characterize the Forest Service Manual, which speaks for itself and is
25 the best evidence of its content. Federal Defendants admit the allegations in the
26 second sentence of footnote 2.

1 26. The allegations in this paragraph constitute conclusions of law to
2 which no response is required.

3 27. The allegations in this paragraph, including footnote 3, constitute
4 conclusions of law to which no response is required.

5 28. The allegations in this paragraph constitute conclusions of law to
6 which no response is required.

7 29. The allegations in this paragraph, including footnote 4, constitute
8 conclusions of law to which no response is required.

9 30. The allegations in this paragraph constitute conclusions of law to
10 which no response is required.

11 31. The allegations in this paragraph constitute conclusions of law to
12 which no response is required.

13 32. The allegations in this paragraph constitute conclusions of law to
14 which no response is required.

15 33. The allegations in this paragraph constitute conclusions of law to
16 which no response is required.

17 34. The allegations in the first three sentences of this paragraph
18 constitute conclusions of law to which no response is required. To the extent a
19 response is required, Federal Defendants deny the allegations in the first three
20 sentences of this paragraph and aver that annual operating plans or annual
21 operating instructions are not required by law or regulation. The allegations in
22 the fourth sentence of this paragraph purport to characterize the environmental
23 analysis for the revised Colville Forest Plan, which speaks for itself and is the
24 best evidence of its content.

25 **“National Environmental Policy Act and Livestock Grazing”**

26 35. The allegations in this paragraph constitute conclusions of law to
27 which no response is required.
28

1 36. The allegations in this paragraph constitute conclusions of law to
2 which no response is required.

3 37. The allegations in this paragraph constitute conclusions of law to
4 which no response is required.

5 38. The allegations in this paragraph constitute conclusions of law to
6 which no response is required.

7 39. The allegations in this paragraph constitute conclusions of law to
8 which no response is required.

9 40. The allegations in this paragraph constitute conclusions of law to
10 which no response is required.

11 41. The allegations in this paragraph constitute conclusions of law to
12 which no response is required.

13 **“Endangered Species Act”**

14 42. The allegations in this paragraph constitute conclusions of law to
15 which no response is required.

16 43. The allegations in this paragraph constitute conclusions of law to
17 which no response is required.

18 44. The allegations in this paragraph constitute conclusions of law to
19 which no response is required.

20 45. The allegations in this paragraph constitute conclusions of law to
21 which no response is required.

22 46. The allegations in this paragraph constitute conclusions of law to
23 which no response is required.

24 **“FACTUAL BACKGROUND”**

25 **“Gray Wolves Return to Washington”**

26 47. Federal Defendants admit the allegations in this paragraph.
27
28

1 48. The allegations in the first sentence of this paragraph regarding “very
2 few wolves” are too vague and ambiguous to permit Federal Defendants to frame
3 a response, and are denied on that basis. Federal Defendants admit the allegations
4 in the second sentence of this paragraph. The allegations in the third sentence of
5 this paragraph constitute conclusions of law to which no response is required.

6 49. Federal Defendants admit the allegations in this paragraph.

7 50. Federal Defendants admit the allegations in this paragraph.

8 51. Federal Defendants admit the allegations in this paragraph.

9 52. To the extent the allegations in this paragraph and the first sentence
10 of footnote 5 purport to characterize the annual wolf report from the Washington
11 Department of Fish and Wildlife (WDFW), that report speaks for itself and is the
12 best evidence of its content. To the extent a response is required, Federal
13 Defendants deny the allegations because they lack sufficient knowledge or
14 information to form a belief as to the truth of the allegations. The allegations in
15 the second sentence of footnote 5 purport to characterize the Wolf Conservation
16 and Management Plan (WA wolf plan), which speaks for itself and is the best
17 evidence of its content. Federal Defendants admit the allegations in the third
18 sentence of footnote 5 that the Confederated Tribes of the Colville Reservation
19 borders the Colville National Forest to the south. Federal Defendants deny the
20 remaining allegations in the third sentence of footnote 5 because they lack
21 sufficient knowledge or information to form a belief as to the truth of the
22 allegations.

23 53. Federal Defendants admit the allegations in this paragraph.

24 **“Wolf Conservation and Management in Washington”**

25 54. The allegations in this paragraph purport to characterize the U.S.
26 Fish and Wildlife Service’s (FWS) 2007 proposed rule to delist the gray wolf in
27
28

1 the northern Rocky Mountains, 72 Fed. Reg. 36,939 (July 6, 2007), which speaks
2 for itself and is the best evidence of its content.

3 55. The allegations in the first sentence of this paragraph purport to
4 characterize unidentified court orders and a 2011 Appropriations Act rider, which
5 speak for themselves and are the best evidence of their content. The allegations
6 in the second sentence of this paragraph purport to characterize the 2011
7 Appropriations Act rider, which speaks for itself and is the best evidence of its
8 content. Federal Defendants admit the allegations in the third sentence of this
9 paragraph. The allegations in the first sentence of footnote 6 constitute
10 conclusions of law to which no response is required. The allegations in the
11 second sentence of footnote 6 purport to characterize 84 Fed. Reg. 9,451, 9,648
12 (Mar. 15, 2019), which speaks for itself and is the best evidence of its content.
13 The allegations in the third sentence of footnote 6 constitute conclusions of law to
14 which no response is required.

15 56. The allegations in this paragraph constitute conclusions of law to
16 which no response is required.

17 57. Federal Defendants deny the allegations in the first sentence of this
18 paragraph that the WDFW began developing the WA wolf plan in 2007 because
19 they lack sufficient knowledge or information to form a belief as to the truth of
20 the allegations. Federal Defendants admit the remaining allegations in the first
21 sentence of this paragraph. Federal Defendants admit the allegations in the
22 second sentence of this paragraph.

23 58. The allegations in this paragraph purport to characterize the WA
24 wolf plan, which speaks for itself and is the best evidence of its content.

25 59. The allegations in this paragraph purport to characterize the WA
26 wolf plan, which speaks for itself and is the best evidence of its content.
27
28

1 60. The allegations in this paragraph purport to characterize WDFW's
2 annual wolf reports, which speak for themselves and are the best evidence of their
3 content.

4 61. The allegations in the first two clauses of the first sentence of this
5 paragraph purport to characterize state legal proceedings, which speak for
6 themselves and are the best evidence of their content. Federal Defendants admit
7 the allegations in the third clause of the first sentence of this paragraph that the
8 Forest Service authorizes grazing on federal public lands. Federal Defendants
9 deny the remaining allegations in the third clause of the first sentence of this
10 paragraph. Federal Defendants deny the allegations in the second sentence of this
11 paragraph because they lack sufficient knowledge or information to form a belief
12 as to the truth of the allegations.

13 **“The Colville National Forest and Livestock Grazing”**

14 62. Federal Defendants admit the allegations in this paragraph except for
15 the allegations in footnote 7. Federal Defendants deny the allegations in footnote
16 7 because they lack sufficient knowledge or information to form a belief as to the
17 truth of the allegations.

18 63. The allegations in the first sentence of this paragraph regarding
19 “diverse array” are too vague and ambiguous to permit Federal Defendants to
20 frame a response, and are denied on that basis. Federal Defendants aver that
21 wildlife and plants inhabit the Colville National Forest including some wildlife
22 that are listed under the ESA and some wildlife and plants that are identified as
23 sensitive species by the Forest Service. Federal Defendants deny the allegation in
24 the second sentence of this paragraph that the wolverine is a “candidate” for
25 federal listing and aver that the wolverine is proposed to be listed as threatened.
26 Federal Defendants admit the remaining allegations in the second sentence of this
27 paragraph.
28

1 64. Federal Defendants admit the allegations in this paragraph.

2 65. Federal Defendants admit the allegations in this paragraph.

3 66. The allegations in this paragraph regarding “source of conflicts,”
4 “dramatically alter,” “ecological communities,” “harming,” “multitude,” and
5 “degrading,” are too vague and ambiguous to permit Federal Defendants to frame
6 a response, and are denied on that basis.

7 **“The Colville’s Forest Plan Revision”**

8 67. Federal Defendants admit the allegations in the first sentence of this
9 paragraph. Federal Defendants admit the allegations in the second sentence of
10 this paragraph that the Forest Service began the public scoping process for
11 revising the 1988 Forest Plan in 2004. Federal Defendants deny the remaining
12 allegations in the second sentence of this paragraph. Federal Defendants admit
13 the allegations in the third sentence of this paragraph that the Forest Service
14 released a draft environmental impact statement (DEIS) for the proposed revised
15 Forest Plan in January 2016. The remaining allegations in the third sentence of
16 this paragraph purport to characterize the DEIS, which speaks for itself and is the
17 best evidence of its content.

18 68. Federal Defendants admit the allegations in this paragraph that
19 Plaintiffs submitted comments on the DEIS. The remaining allegations in this
20 paragraph purport to characterize those comments, which speak for themselves
21 and are the best evidence of their content.

22 69. Federal Defendants admit the allegations in this paragraph, and aver
23 that the Forest Service issued a revised version of the final environmental impact
24 statement (FEIS) in September 2019.

25 70. The allegations in this paragraph purport to characterize the FEIS,
26 which speaks for itself and is the best evidence of its content. The allegations in
27 this paragraph further constitute conclusions of law to which no response is
28

1 required. To the extent a response is required, Federal Defendants deny the
2 allegations in this paragraph.

3 71. Federal Defendants admit the allegations in this paragraph that
4 Plaintiffs filed objections to the FEIS and draft ROD. The remaining allegations
5 in this paragraph constitute conclusions of law to which no response is required.

6 72. The allegations in this paragraph purport to characterize objections
7 to the FEIS and draft ROD, which speak for themselves and are the best evidence
8 of their content.

9 73. The allegations in this paragraph and footnote 8 purport to
10 characterize certain cited references, which speak for themselves and are the best
11 evidence of their content.

12 74. The allegations in this paragraph purport to characterize the 1988
13 Colville Forest Plan and the 2019 Forest Plan, which speak for themselves and
14 are the best evidence of their content.

15 75. The allegations in the first sentence of this paragraph purport to
16 characterize objections to the FEIS and draft ROD, which speak for themselves
17 and are the best evidence of their content. The allegations in the second sentence
18 of this paragraph and the four accompanying bullet points purport to characterize
19 proposed revised Forest Plans for the Wallowa-Whitman, Umatilla, and Malheur
20 National Forests, which speak for themselves and are the best evidence of their
21 content. Federal Defendants admit the allegations in footnote 9.

22 76. The allegations in this paragraph purport to characterize the FEIS,
23 which speaks for itself and is the best evidence of its content.

24 77. The allegations in this paragraph purport to characterize the ROD,
25 which speaks for itself and is the best evidence of its content.

26 **“Diamond M’s Cattle Grazing on the Colville and its Highly**
27 **Disproportionate Rate of Conflict with Gray Wolves”**
28

1 78. Federal Defendants admit the allegations in this paragraph that the
2 Forest Service has issued permits to the Diamond M Ranch, a partnership of the
3 McIrvin family, to graze cattle on the Colville National Forest for the past 75
4 years. Federal Defendants deny the remaining allegations in this paragraph
5 because they lack sufficient knowledge or information to form a belief as to the
6 truth of the allegations.

7 79. Federal Defendants admit the allegations in this paragraph that the
8 Forest Service issued a permit to the Diamond M Ranch to graze cattle on the
9 Churchill, Lambert, C.C. Mountain, Hope Mountain, and Copper-Mires
10 allotments in 2013. The remaining allegations in this paragraph purport to
11 characterize the permit, which speaks for itself and is the best evidence of its
12 content.

13 80. The allegations in this paragraph are too vague and ambiguous to
14 permit Federal Defendants to frame a response, and are denied on that basis.

15 81. The allegations in this paragraph regarding “mounting, high-profile
16 conflicts” and “resulted in numerous preventable wolf deaths,” are too vague and
17 ambiguous to permit Federal Defendants to frame a response, and are denied on
18 that basis.

19 82. Federal Defendants deny the allegations in this paragraph because
20 they lack sufficient knowledge or information to form a belief as to the truth of
21 the allegations.

22 83. Federal Defendants deny the allegations in this paragraph because
23 they lack sufficient knowledge or information to form a belief as to the truth of
24 the allegations.

25 84. Federal Defendants deny the allegations in this paragraph, including
26 footnote 10, because they lack sufficient knowledge or information to form a
27 belief as to the truth of the allegations.
28

1 85. Federal Defendants deny the allegations in this paragraph because
2 they lack sufficient knowledge or information to form a belief as to the truth of
3 the allegations.

4 86. Federal Defendants admit the allegations in the first sentence of this
5 paragraph that three cattle were found on the Lambert allotment in January 2019.
6 The allegations in the first sentence of this paragraph that the cattle were left
7 “unlawfully” is a conclusion of law to which no response is required. The
8 allegations in the first sentence of this paragraph that the cattle were left on the
9 allotment “beyond the season of use dates authorized in [Diamond M’s] federal
10 grazing permit,” purport to characterize that permit, which speaks for itself and is
11 the best evidence of its content. Federal Defendants deny the remaining
12 allegations in the first sentence of this paragraph because they lack sufficient
13 knowledge or information to form a belief as to the truth of the allegations.

14 Federal Defendants deny the allegations in the second sentence of this paragraph
15 because they lack sufficient knowledge or information to form a belief as to the
16 truth of the allegations

17 87. Federal Defendants deny the allegations in this paragraph because
18 they lack sufficient knowledge or information to form a belief as to the truth of
19 the allegations.

20 88. Federal Defendants deny the allegations in this paragraph because
21 they lack sufficient knowledge or information to form a belief as to the truth of
22 the allegations.

23 89. Federal Defendants deny the allegations in this paragraph because
24 they lack sufficient knowledge or information to form a belief as to the truth of
25 the allegations.
26
27
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1 90. Federal Defendants deny the allegations in this paragraph because
2 they lack sufficient knowledge or information to form a belief as to the truth of
3 the allegations.

4 91. Federal Defendants deny the allegations in this paragraph because
5 they lack sufficient knowledge or information to form a belief as to the truth of
6 the allegations.

7 92. Federal Defendants deny the allegations in this paragraph because
8 they lack sufficient knowledge or information to form a belief as to the truth of
9 the allegations.

10 93. The allegations in this paragraph purport to characterize WDFW's
11 2016 predation reports, which speak for themselves and are the best evidence of
12 their content.

13 94. The allegations in the first clause of the first sentence of this
14 paragraph purport to characterize WDFW's 2016 predation reports, which speak
15 for themselves and are the best evidence of their content. Federal Defendants
16 deny the allegations in the second clause of the first sentence of this paragraph.
17 The allegations in the second sentence of this paragraph are too vague and
18 ambiguous to permit Federal Defendants to frame a response, and are denied on
19 that basis.

20 95. Federal Defendants deny the allegations in this paragraph because
21 they lack sufficient knowledge or information to form a belief as to the truth of
22 the allegations.

23 96. The allegations in this paragraph purport to characterize the WA
24 wolf plan, which speaks for itself and is the best evidence of its content.

25 97. The allegations in the parenthetical to the first sentence of this
26 paragraph and the accompanying footnote 11 purport to characterize a report from
27 the U.S. Department of Agriculture, which speaks for itself and is the best
28

1 evidence of its content. Federal Defendants deny the remaining allegations in the
2 first sentence of this paragraph because they lack sufficient knowledge or
3 information to form a belief as to the truth of the allegations. The allegations in
4 the second sentence of this paragraph purport to characterize data gathered for
5 two studies by Washington State University (WSU), which speaks for itself and is
6 the best evidence of its content. Federal Defendants deny the allegations in
7 footnote 12 because they lack sufficient knowledge or information to form a
8 belief as to the truth of the allegations. The allegations in the third sentence of
9 this paragraph, including footnote 13, purport to characterize a 2016 WSU study,
10 which speaks for itself and is the best evidence of its content. The allegations in
11 the fourth and fifth sentences of this paragraph, including footnote 14, purport to
12 characterize a 2017 WSU study, which speaks for itself and is the best evidence
13 of its content.

14 98. Federal Defendants deny the allegations in the first sentence of this
15 paragraph because they lack sufficient knowledge or information to form a belief
16 as to the truth of the allegations. The allegations in the second sentence of this
17 paragraph purport to characterize a map, which speaks for itself and is the best
18 evidence of its content.

19 99. The allegations in the first sentence of this paragraph are too vague
20 and ambiguous to permit Federal Defendants to frame a response, and are denied
21 on that basis. Federal Defendants deny the allegations in the second sentence of
22 this paragraph because they lack sufficient knowledge or information to form a
23 belief as to the truth of the allegations. The allegations in the third sentence of
24 this paragraph, including footnote 15, purport to characterize a newspaper article,
25 which speaks for itself and is the best evidence of its content.

26 **“The Forest Service’s Failure to Responsibly Manage Livestock Grazing on**
27 **the Colville”**
28

1 100. The allegations in this paragraph constitute conclusions of law to
2 which no response is required.

3 101. The allegations in this paragraph purport to characterize unidentified
4 communications with the Forest Service, which speak for themselves and are the
5 best evidence of their content.

6 102. The allegations in this paragraph purport to characterize a
7 communication from Washington Governor Jay Inslee to WDFW, which speaks
8 for itself and is the best evidence of its content.

9 103. The allegations in this paragraph regarding “ignoring,” “public
10 outcry,” “problematic cattle grazing,” and “will likely end” are too vague and
11 ambiguous to permit Federal Defendants to frame a response, and are denied on
12 that basis.

13 104. Federal Defendants admit the allegations in the first sentence of this
14 paragraph and aver that any adjustments to time, intensity, duration, and location
15 of annual grazing must be consistent with the operative grazing permit and
16 allotment management plan. The allegations in the second sentence of this
17 paragraph regarding “authorizes,” “repeatedly concentrate,” “known core wolf
18 areas,” “active wolf rendezvous sites,” and “nearby dens,” are too vague and
19 ambiguous to permit Federal Defendants to frame a response, and are denied on
20 that basis. Federal Defendants deny the allegations in the third and fourth
21 sentences of this paragraph. The allegations in the fifth sentence of this
22 paragraph regarding “sat idly by,” “predations piled up,” “demands for dead
23 wolves,” “swiftly met,” and “series of lethal control actions” are too vague and
24 ambiguous to permit Federal Defendants to frame a response, and are denied on
25 that basis.

26 105. Federal Defendants deny the allegations in the first sentence of this
27 paragraph. Federal Defendants admit the allegations in the first clause of the
28

1 second sentence of this paragraph and aver that any adjustments to time and
2 location of annual grazing must be consistent with the operative grazing permit
3 and allotment management plan. The allegations in the second clause of the
4 second sentence of this paragraph regarding “core wolf areas,” are too vague and
5 ambiguous to permit Federal Defendants to frame a response, and are denied on
6 that basis. Federal Defendants admit the allegations in the third clause of the
7 second sentence of this paragraph that “the Forest Service can also modify the
8 class of livestock permitted to graze federal allotments,” but aver that such a
9 modification must either be requested by the permittee or proposed and
10 authorized through the NEPA process, after which the permittee would have an
11 opportunity to appeal any modifications. The allegations in the third sentence of
12 this paragraph purport to characterize Diamond M’s grazing permits, which speak
13 for themselves and are the best evidence of their content. Federal Defendants
14 deny the allegations in the fourth sentence of this paragraph.

15 106. The allegations in the first sentence of this paragraph are vague and
16 ambiguous and therefore Federal Defendants deny them because they lack
17 sufficient knowledge or information to form a belief as to the truth of the
18 allegations. In addition, to the extent the allegations in the first sentence of this
19 paragraph constitute conclusions of law, no response is required. The allegations
20 in the second sentence of this paragraph purport to characterize Diamond M’s
21 grazing permits, which speak for themselves and are the best evidence of their
22 content.

23 107. The allegations in the first sentence of this paragraph regarding
24 “corrective action,” “repeated failure,” and “timely move” are too vague and
25 ambiguous to permit Federal Defendants to frame a response, and are denied on
26 that basis. Federal Defendants deny the allegations in the second sentence of this
27 paragraph because they lack sufficient knowledge or information to form a belief
28

1 as to the truth of the allegations. The allegations in the third sentence of this
2 paragraph regarding “the permitted season of use dates for each of the five
3 allotments, which all expire between September 30 and October 31,” purport to
4 characterize the relevant grazing permits, which speak for themselves and are the
5 best evidence of their content. The remaining allegations in the third sentence of
6 this paragraph are too vague and ambiguous to permit Federal Defendants to
7 frame a response, and are denied on that basis. The allegations in the fourth
8 sentence of this paragraph constitute conclusions of law to which no response is
9 required. Federal Defendants deny the allegations in the fifth sentence of this
10 paragraph. The allegations in the sixth sentence of this paragraph purport to
11 characterize a letter, which speaks for itself and is the best evidence of its content.
12 Federal Defendants deny the allegations in the seventh sentence of this paragraph
13 because they lack sufficient knowledge or information to form a belief as to the
14 truth of the allegations.

15 **“The Forest Service’s Outdated NEPA Analyses and AMPs for Diamond**
16 **M’s Grazing”**

17 108. The allegations in this paragraph constitute conclusions of law to
18 which no response is required. To the extent a response is required, Federal
19 Defendants deny the allegations in this paragraph.

20 109. The allegations in this paragraph constitute conclusions of law to
21 which no response is required. Further, the allegations in this paragraph purport
22 to characterize various allotment management plans, which speak for themselves
23 and are the best evidence of their content.

24 110. The allegations in this paragraph regarding “grazing authorizations”
25 and “rely on” are too vague and ambiguous to permit Federal Defendants to frame
26 a response, and are denied on that basis. Federal Defendants aver that the
27 documents identified in the bullet points to this paragraph remain in effect.
28

1 111. Federal Defendants deny the allegations in this paragraph.

2 112. The allegations in this paragraph purport to characterize a letter,
3 which speaks for itself and is the best evidence of its content.

4 113. The allegations in the first four sentences of this paragraph purport to
5 characterize a letter, which speaks for itself and is the best evidence of its content.
6 Federal Defendants deny the allegations in the fifth sentence of this paragraph
7 because they lack sufficient knowledge or information to form a belief as to the
8 truth of the allegations.

9 114. Federal Defendants admit the allegations in this paragraph that “the
10 Forest Service has not responded to Plaintiffs’ letter or issued any public notice
11 indicating it would prepare supplemental NEPA analyses.” The remaining
12 allegations in this paragraph constitute conclusions of law to which no response is
13 required. To the extent a response is required, Federal Defendants deny the
14 remaining allegations in this paragraph.

15 **“Potential Impacts to ESA-Listed Species and Their Habitats from Diamond**
16 **M’s Grazing”**

17 115. The allegations in the first sentence of this paragraph constitute
18 conclusions of law to which no response is required. To the extent a response is
19 required, Federal Defendants deny the allegations in the first sentence. The
20 allegations in the second and third sentences of this paragraph purport to
21 characterize the Forest Service’s Biological Assessment for the 2019 Forest Plan
22 (FS BA) and/or FWS’s Biological Opinion for the 2019 Forest Plan (FWS BO),
23 which speak for themselves and are the best evidence of their content.

24 116. Federal Defendants admit the allegation in the first sentence of this
25 paragraph that portions of the Kettle-Wedge area overlap with Diamond M
26 allotments. The remaining allegations in this paragraph purport to characterize the
27 FWS BO and/or the Interagency Lynx Biology Team’s 2013 Canada Lynx
28

1 Conservation Assessment and Strategy, 3rd edition, which speak for themselves
2 and are the best evidence of their content.

3 117. The allegations in the first sentence of this paragraph regarding
4 “adjacent lands” without a reference point and “may be present” are too vague
5 and ambiguous to permit Federal Defendants to frame a response, and are denied
6 on that basis. The allegations in the second sentence of this paragraph purport to
7 characterize the Forest Service’s August 11, 2006 Biological Evaluation for the
8 Big Border Cluster Grazing Allotments, which speaks for itself and is the best
9 evidence of its content.

10 118. Federal Defendants admit the allegation in the first sentence of this
11 paragraph that the whitebark pine is a candidate species for federal listing.
12 Federal Defendants admit the allegation in the first sentence of this paragraph that
13 the whitebark pine is present on the Diamond M allotments. The remaining
14 allegations in this paragraph purport to characterize the FEIS and/or the Forest
15 Service’s 2002 Fire Effects Information System Species Review for the *Pinus*
16 *albicaulis* (whitebark pine), which speak for themselves and are the best evidence
17 of their content.

18 119. The allegations in the first sentence of this paragraph regarding
19 Plaintiffs’ “information and belief” about Biological Assessments prepared by the
20 Forest Service “since at least 2000” are too vague and ambiguous to permit
21 Federal Defendants to frame a response, and are denied on that basis. Federal
22 Defendants admit the allegation in the second sentence of this paragraph that they
23 received a letter dated April 1, 2020 from Plaintiffs WildEarth Guardians and
24 Western Watersheds Project. The remaining allegations in the second sentence
25 regarding Plaintiffs’ characterization and/or legal effect of that letter constitute
26 conclusions of law to which no response is required. To the extent a response is
27
28

1 required, Federal Defendants deny the remaining allegations in the second
2 sentence.

3 **“FIRST CLAIM FOR RELIEF”**

4 **“VIOLATIONS OF THE NATIONAL ENVIRONMENTAL POLICY ACT”**

5 **“(Failure to Address Impacts to Wolves Under the New Colville Forest Plan**
6 **and to Evaluate Reasonable Grazing Management Alternatives that Reduce**
7 **Wolf-Livestock Conflicts)”**

8 120. Federal Defendants restate and incorporate by reference their
9 response to all preceding paragraphs.

10 121. The allegations in this paragraph and its subparagraphs A through E
11 constitute conclusions of law to which no response is required. To the extent a
12 response is required, Federal Defendants deny the allegations in this paragraph.
13 Further, to the extent the allegations in this paragraph purport to characterize the
14 FEIS, that document speaks for itself and is the best evidence of its content.

15 122. The allegations in this paragraph constitute conclusions of law to
16 which no response is required. To the extent a response is required, Federal
17 Defendants deny the allegations in this paragraph.

18 123. The allegations in this paragraph constitute conclusions of law to
19 which no response is required. To the extent a response is required, Federal
20 Defendants deny the allegations in this paragraph.

21 **“SECOND CLAIM FOR RELIEF”**

22 **“VIOLATIONS OF THE NATIONAL ENVIRONMENTAL POLICY ACT”**

23 **“(Failure to Prepare Supplemental NEPA Analyses for the Diamond M**
24 **Allotment Management Plans)”**

25 124. Federal Defendants restate and incorporate by reference their
26 response to all preceding paragraphs.

1 125. The allegations in this paragraph constitute conclusions of law to
2 which no response is required.

3 126. The allegations in this paragraph constitute conclusions of law to
4 which no response is required.

5 127. The allegations in this paragraph constitute conclusions of law to
6 which no response is required. To the extent a response is required, Federal
7 Defendants deny the allegations in this paragraph.

8 128. The allegations in the first sentence of this paragraph regarding
9 “relies on” and “continue authorizing grazing” are too vague and ambiguous to
10 permit Federal Defendants to frame a response, and are denied on that basis. The
11 allegations in the second sentence of this paragraph constitute conclusions of law
12 to which no response is required. To the extent a response is required, Federal
13 Defendants deny the allegations in the second sentence of this paragraph.

14 129. The allegations in this paragraph constitute conclusions of law to
15 which no response is required. To the extent a response is required, Federal
16 Defendants deny the allegations in this paragraph.

17 **“THIRD CLAIM FOR RELIEF”**

18 **“VIOLATIONS OF THE NATIONAL FOREST MANAGEMENT ACT”**

19 **“(Revised Colville Forest Plan Fails to Meet NFMA’s Requirements)”**

20 130. Federal Defendants restate and incorporate by reference their
21 response to all preceding paragraphs.

22 131. The allegations in this paragraph constitute conclusions of law to
23 which no response is required.

24 132. The allegations in this paragraph constitute conclusions of law to
25 which no response is required. To the extent a response is required, Federal
26 Defendants deny the allegations in this paragraph.

1 133. The allegations in the first sentence of this paragraph constitute
2 conclusions of law to which no response is required. To the extent a response is
3 required, Federal Defendants deny the allegations in the first sentence of this
4 paragraph. Federal Defendants deny the allegations in the second sentence of this
5 paragraph.

6 134. The allegations in this paragraph constitute conclusions of law to
7 which no response is required. To the extent a response is required, Federal
8 Defendants deny the allegations in this paragraph.

9 **“FOURTH CLAIM FOR RELIEF”**

10 **“VIOLATIONS OF THE NATIONAL FOREST MANAGEMENT ACT”**

11 **“(Diamond M’s Grazing Authorizations are Inconsistent with Forest Plan**
12 **Direction)”**

13 135. Federal Defendants restate and incorporate by reference their
14 response to all preceding paragraphs.

15 136. The allegations in this paragraph constitute conclusions of law to
16 which no response is required.

17 137. The allegations in this paragraph purport to characterize the revised
18 Colville Forest Plan, which speaks for itself and is the best evidence of its
19 content.

20 138. The allegations in the first sentence of this paragraph purport to
21 characterize the revised Colville Forest Plan, which speaks for itself and is the
22 best evidence of its content. Federal Defendants deny the allegations in the
23 second sentence of this paragraph.

24 139. The allegations in this paragraph constitute conclusions of law to
25 which no response is required. To the extent a response is required, Federal
26 Defendants deny the allegations in this paragraph.

1 140. The allegations in this paragraph constitute conclusions of law to
2 which no response is required. To the extent a response is required, Federal
3 Defendants deny the allegations in this paragraph.

4 **“FIFTH CLAIM FOR RELIEF”**

5 **“VIOLATIONS OF THE ENDANGERED SPECIES ACT”**

6 **“(Failure to Consult over the Impacts of Diamond M’s Grazing)”**

7 141. Federal Defendants restate and incorporate by reference their
8 response to all preceding paragraphs.

9 142. The allegations in this paragraph constitute conclusions of law to
10 which no response is required.

11 143. The allegations in the first sentence of this paragraph regarding “[a]t
12 least since 2000” and “species such as” are too vague and ambiguous to permit
13 Federal Defendants to frame a response, and are denied on that basis. The
14 allegations in the second sentence of this paragraph constitute conclusions of law
15 to which no response is required. To the extent a response is required, Federal
16 Defendants deny the allegations in the second sentence of this paragraph.

17 144. The allegations in this paragraph constitute conclusions of law to
18 which no response is required. To the extent a response is required, Federal
19 Defendants deny the allegations in this paragraph.

20 145. The allegations in this paragraph constitute conclusions of law to
21 which no response is required.

22 **“REQUEST FOR RELIEF”**

23 The remaining paragraphs of Plaintiffs’ Complaint, denominated A-I
24 constitute Plaintiffs’ request for relief to which no response is required. To the
25 extent a further response may be required, Federal Defendants deny that Plaintiffs
26 are entitled to the relief requested or any relief whatsoever.

27 **GENERAL DENIAL**

1 Federal Defendants deny each and every allegation of the Complaint not
2 otherwise expressly admitted, qualified, or denied herein. In addition, Federal
3 Defendants hereby expressly reserve the right to plead any affirmative defenses,
4 jurisdictional or justiciability bars to Plaintiffs' claims, or any applicable state or
5 federal statutes that it may determine apply to this case as litigation of such claims
6 proceeds.

7
8 WHEREFORE, Federal Defendants request that the Court dismiss the
9 Complaint in its entirety, render judgment for Federal Defendants and against
10 Plaintiffs, and grant Federal Defendants any further relief that the nature of the
11 case and justice require.

12
13 Respectfully submitted this 21st day of August, 2020.

14
15 /s/ Emma L. Hamilton
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CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system.

/s/ Emma L. Hamilton
EMMA L. HAMILTON
U.S. Department of Justice